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9 TOYAN FOLAMI,

10 Plaintiff,

No. C 12-03099 JSW

11 v.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA,

14 Defendant.

15 /

16 **ORDER DENYING APPLICATION
17 TO PROCEED IN *IN FORMA
18 PAUPERIS* AND DISMISSING
19 COMPLAINT**

20 The Court has received Plaintiff's complaint and application to proceed *in forma*
21 *pauperis*, both filed on June 15, 2012. The Court may authorize a plaintiff to file an action in
22 federal court without prepayment of fees or security if the plaintiff submits an affidavit showing
23 that he or she is unable to pay such fees or give security therefor. 28 U.S.C. § 1915(a). The *in*
24 *forma pauperis* statute also provides that the Court shall dismiss the case if at any time the
25 Court determines that the allegation of poverty is untrue, or that the action (1) is frivolous or
26 malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief
27 against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint is
28 frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Where a complaint fails to state that any constitutional or statutory right was
violated and fails to assert any basis for federal subject matter jurisdiction, there is no arguable
basis in law under *Neitzke* and the court may dismiss the complaint under 19 U.S.C.
§ 1915(e)(2)(B).

1 Federal courts are under a duty to raise and decide issues of subject matter jurisdiction
2 *sua sponte* at any time it appears subject matter jurisdiction may be lacking. Fed. R. Civ. P. 12;
3 *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). If the Court determines that
4 subject matter jurisdiction is lacking, the Court must dismiss the case. *Id.*; Fed. R. Civ. P.
5 12(h)(3). California superior courts are courts of general, unlimited jurisdiction and can render
6 enforceable judgments in practically any type of case. However, federal courts have limited
7 jurisdiction. Federal courts can only adjudicate cases which the Constitution or Congress
8 authorize them to adjudicate: those cases involving diversity of citizenship (where the parties
9 are from diverse states), or a federal question, or those cases to which the United States is a
10 party. *See, e.g., Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375 (1994).
11 Federal courts are presumptively without jurisdiction over civil cases and the burden of
12 establishing the contrary rests upon the party asserting jurisdiction. *Id.* at 377.

13 It is impossible to discern from Plaintiff's complaint many of the essential details of the
14 events giving rise to a claim against the United States District Court.¹ It is not clear what claims
15 Plaintiff actually asserts against the Court and what injury he alleges that he has incurred from
16 any alleged conduct by the Court. As such, Plaintiff has failed to set forth "a short and plain
17 statement of the claim showing that the pleader is entitled to relief" as required by Rule 8 of the
18 Federal Rules of Civil Procedure.

19 Accordingly, Plaintiff's application to proceed *in forma pauperis* is HEREBY DENIED
20 and the complaint is, DISMISSED, both without prejudice. However, the Court shall afford
21 Plaintiff an opportunity to amend his complaint.

22 If Plaintiff wishes to pursue this action, he must file an amended complaint by **October
23 26, 2012**. Failure to file a cognizable legal claim against the District Court by this date shall
24 result in dismissal of this action with prejudice. The Court advises Plaintiff that a Handbook for
25 Pro Se Litigants, which contains helpful information about proceeding without an attorney, is
26 available through the Court's website or in the Clerk's office. The Court also advises Plaintiff

27
28 ¹ Plaintiff also has filed a case against the Internal Revenue Service for what appears
to be the same or related conduct. That case is proceeding. *Folami v. Internal Revenue
Service*, 12-03474 JSW.

1 that additional assistance may be available by making an appointment with the Legal Help
2 Center, which is located at 450 Golden Gate Avenue, 15th Floor, Room 2796, San Francisco,
3 California, 94102.

IT IS SO ORDERED.

6 | Dated: October 3, 2012

JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

TOYAN FOLAMI,

Case Number: CV12-03099 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 3, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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Toyan Folami
1050 7th Street, #1007
Oakland, CA 94607

Dated: October 3, 2012

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk